

United States
Circuit Court of Appeals

For the Ninth Circuit.

WALVILLE LUMBER COMPANY, a Corpora-
tion,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Supplemental Transcript of Record.

UPON PETITION TO REVIEW AN ORDER OF THE UNITED
STATES BOARD OF TAX APPEALS.

FILED

AUG 30 1909

PAUL F. O'BRIEN,

CLERK

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INDEX TO THE PRINTED TRANSCRIPT OF
RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Filed Oct. 1, 1927. United States Board of Tax Appeals.

United States Board of Tax Appeals.

Docket No. 10,295.

WALVILLE LUMBER COMPANY,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

REQUEST FOR FINDINGS OF FACT.

The petitioner, considering the facts hereinafter set forth to be proven, and deeming them material to the due presentation of this case in the findings of fact, requests the Board to find the same as follows:

1. The petitioner is a corporation organized and existing under the laws of the State of Washington, with its office and principal place of business at Walville, of the said state. Its original authorized capital stock of the par value of \$1,000,000.00 was issued and bonded and other indebtedness assumed as consideration for the acquisition, prior to March 1, 1913, of timber, a sawmill and cross-arm factory, machinery and equipment, etc., [1*]
2. The assets so acquired had a fair value at the date of acquisition of \$170,329.46 in excess of

*Page-number appearing at the foot of page of original certified Supplemental Transcript of Record.

the par value of the shares of stock issued and the amount of the liabilities assumed in in acquisition thereof, which said excess constituted paid-in surplus includible in statutory invested capital.

3. In the year 1919 the capital stock of the petitioner was reduced, without consideration, from \$1,000,000.00 to \$500,000.00, consisting of 2,500 shares of common and 2,500 shares of preferred, all of the par value of \$100.00 each. All of the preferred stock, par value \$250,000.00, and 1,744 shares, total par value of \$174,400.00, of the authorized common stock were issued immediately after such reduction, leaving 756 shares of the common stock, par value \$75,600.00, at all times thereafter unissued.
4. During the year 1919 the petitioner was the owner of certain shares of stock of the Walworth & Neville Manufacturing Company, a Michigan corporation, which had been acquired prior to March 1, 1913, at a cost of \$440,000.00, and had a fair value on the basic date indicated of \$225,967.28. [2]
5. In the year 1919 the Walworth & Neville Manufacturing Company was dissolved. Upon such dissolution the petitioner received nothing as a liquidating dividend from the dissolved corporation.
6. In computing net income for the year 1919 the petitioner took into account a deduction of of \$74,400.00 representing the loss, tentatively

computed, sustained with respect to its investment in shares of stock of the Walworth & Neville Manufacturing Company, not compensated for by insurance or otherwise, which loss was disallowed by the respondent, resulting in an asserted deficiency in income and profits taxes of \$7,514.86.

Respectfully submitted,
ANDREW G. ELDER,
MATHEW W. HILL,
EUGENE H. KNAPP,
Attorneys for Petitioner.

Dexter Horton Building,
Seattle, Washington,

Now, August 17, 1929, the foregoing request for findings of fact certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, Board of Tax Appeals. [3]

Filed Aug. 16, 1929. United States Board of Tax Appeals.

United States Board of Tax Appeals.

Docket No. 10,295.

WALVILLE LUMBER COMPANY,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

STIPULATION REGARDING SUPPLEMENTAL TRANSCRIPT OF RECORD.

It appears that either through accident or error, the petitioner failed to designate, definitely, in its "Praeceptum for Transcript of Record on Review of Decision of United States Board of Tax Appeals," which praecipe was duly filed with the Clerk of the United States Board of Tax Appeals on January 10th, 1929, that there be included in the transcript of the record for filing in the United States Circuit Court of Appeals for the Ninth Circuit, the petitioner's "Request for Findings of Fact" which were duly and regularly filed by the petitioner with the United States Board of Tax Appeals on October 1, 1927, and the petitioner believing that it is material to the petitioner that said "Request for Findings of Fact" be included in the transcript of record before the United States Circuit Court of Appeals for the Ninth Circuit, NOW THEREFORE, [4]

IT IS HEREBY STIPULATED and AGREED by and between the Walville Lumber Company, a corporation, petitioner, by and through its attorneys, Andrew G. Elder and Joseph Nievinski, and the Commissioner of Internal Revenue, respondent, above named, by and through his attorney, that the petitioner's "Request For Findings of Fact" as heretofore filed on October 1, 1927, with the United States Board of Tax Appeals, shall be duly certified as correct by the Clerk of the United States

Board of Tax Appeals, and shall be transmitted by said Clerk to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit as a supplemental transcript of record on review, and that upon the filing of said supplemental transcript with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, he may proceed to print the same, together with this stipulation as a supplemental transcript of record, and that the said supplemental transcript of record, when so printed, shall, to all intents and purposes, be considered as a part of the original transcript of record on file with the United States Circuit Court of Appeals for the Ninth Circuit, to all intents and purposes as if said petitioner's "Request For Findings of Fact" had been included in the [5] original transcript as originally prepared and certified by the Clerk of the United States Board of Tax Appeals.

ANDREW G. ELDER,

(Signed) ANDREW G. ELDER,

JOSEPH NIEVINSKI.

(Signed) JOSEPH NIEVINSKI,

Attorneys for Appellant and Petitioner.

(Signed) C. M. CHAREST,

General Counsel Bureau of Internal Revenue,

Attorney for Respondent.

Now, August 17, 1929, the foregoing stipulation certified from the record as a true copy.

B. D. GAMBLE,

Clerk, U. S. Board of Tax Appeals. [6]

[Endorsed]: No. 5710. United States Circuit Court of Appeals for the Ninth Circuit. Walville Lumber Company, a Corporation, Petitioner, vs. Commissioner of Internal Revenue, Respondent. Supplemental Transcript of Record. Upon Petition to Review an Order of the United States Board of Tax Appeals.

Filed August 23, 1929.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Frank H. Schmid,
Deputy Clerk.